

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

July 21, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 21, 2016 at 1:35 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; David Dennis, Vice Chair (Out @2:35 p.m.); John Dailey; Bob Dool; Bill Ellison; David Foster; Matt Goolsby (Out @2:40 p.m.); Joe Johnson; John McKay Jr.; Debra Miller Stevens; Bill Ramsey (Out @2:40 p.m.); Lowell Richardson and John Todd. Members absent were: Chuck Warren. Staff members present were: Dale Miller, Director; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the June 2, 2016 Planning Commission Minutes.

MOTION: To approve the June 2, 2016 Planning Commission minutes.

RICHARDSON moved, **JOHNSON** seconded the motion, and it carried (12-0-1).
MILLER STEVENS – Abstained.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2016-00022: One-Step Final Plat – BELLE TERRE COMMERCIAL**

ADDITION, located on the on the north side of East Kellogg, west of 159th Street East.

NOTE: This is a replat of a portion of the Belle Terre South Addition. A zone change (PUD2016-00001) has been approved from Limited Commercial (LC) to Planned Unit Development (PUD).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the applicant extend water (distribution) and extend sewer (laterals). In lieu-of-assessment fees are due on transmission.
- B. The platlor's text references a drainage and utility easement not shown on the face of the plat.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- D. City Stormwater Management has approved the drainage plan. The plat shall state the minimum pad elevation for buildings on the site shall be at elevation 1305.0 (NAVD).
- E. Traffic Engineering has approved the access controls which are in accordance with the PUD approval. The plat denotes a right in/right out opening between Kellogg Drive and US-54 Highway. KDOT approval of the opening is needed prior to development. Dimensions are needed for all segments of access control.

- F. Traffic Engineering has required a guarantee for acceleration and deceleration lane improvements, and reconfiguration of Kellogg Drive to a frontage road.
- G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- H. The plat shall label the future right of way as a contingent right of way dedication and referenced in the plat's text as being used by KDOT or the City of Wichita for the improvement of US-54/400 Highway (Kellogg).
- I. The 35-foot building setback should be measured from the contingent right of way dedication. The applicant shall meet with City Engineering regarding a setback for Lot 2.
- J. The plat's text shall be corrected to replace Reserve B with Reserve L, Belle Terre South Addition regarding construction of the frontage road.
- K. GIS requests that US-54 be labelled as US-54/400 HWY.
- L. County Surveying advises the legal description needs to include that portion of Kellogg Drive being replatted.
- M. County Surveying advises the bearing on Reserve L, Belle Terre South Addition of N 44°09'21" needs corrected to N 44°09'21" E.
- N. County Surveying advises the bearing on the northeasterly line of Reserve A of N 47°43'00" W was previously platted N 47°30'00" W.
- O. County Surveying advises the distance of 56.93 feet along the northeasterly line of Reserve B needs verified, that is along the line of Kellogg Drive being replatted, as said Kellogg Drive was platted 58 feet wide.
- P. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- Q. A cross-lot access easement is needed from Lot 1 to Lot 2.
- R. The plat's text references an emergency access opening to Kellogg which may be deleted.
- S. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.

- T. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- U. "Lots, a Block, Reserves and Streets" shall be referenced in the plat's text.
- V. The reserves shall be bounded with a solid line.
- W. The floodway and landscape buffer boundaries do not coincide with the PUD. A PUD adjustment shall be submitted denoted the revised floodway and landscape buffer, in addition to the revised building setbacks and display area.
- X. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- Y. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- Z. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- AA. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- BB. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- CC. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- DD. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- EE. Perimeter closure computations shall be submitted with the final plat tracing.
- FF. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- GG. Westar Energy has requested additional easements. LaDonna Vanderford is the Construction Services Representative who will be the contact for this plat and can be reached at 316-261-6490. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- HH. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **MCKAY** seconded the motion, and it carried (13-0).

2-2. SUB2016-00024: One-Step Final Plat – SUN-AIR ESTATES 2ND ADDITION,
located on the south side of 45th Street North, West of Webb Road.

NOTE: This is a replat of a portion of the Sun-Air Estates Addition creating five lots from two lots.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the applicant extend water (distribution) and extend sewer (laterals). In-lieu-of-assessment fees are due on water (transmission) and sewer (mains).
- B. The platlor's text shall include language that "No signs, light poles, private drainage systems, masonry trash enclosures or other structures shall be located within public utility easements."
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- D. City Stormwater Management has approved the drainage plan.
- E. The private street shall also be labelled as a Reserve and referenced in the platlor's text. A 15-foot street, sidewalk, drainage and utility easement is needed adjoining the reserve.
- F. The platlor's text shall reference, "Lots, a block, a street and a Reserve".
- G. The SS on the notary line needs moved up to the end of State of Kansas, County of Sedgwick.

- H. County Surveying advises a central angle needs added for the curve having a distance of 35.28 feet.
- I. County Surveying advises the Bearing N 0°00'00" W along the north line of the section needs corrected.
- J. County Surveying advises the distance of 2640.00 feet along the north line of the section needs corrected.
- K. The applicant shall guarantee the paving of the private street to a public street paving standard. As private improvements, such guarantee shall not be provided through the use of a petition.
- L. A restrictive covenant shall be submitted regarding the private street, which sets forth ownership and maintenance responsibilities. The platting text shall reference the platting of the Reserve for private street purposes.
- M. A bold line is needed at the perimeter of the plat boundaries (south line of the street dedication).
- N. GIS has requested a street name for the private street.
- O. The Applicant has platted a 15-foot building setback which represents an adjustment of the Subdivision Regulation standards which requires a 20-foot front yard setback for the narrow residential street. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- P. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- Q. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- R. Since this plat proposes the platting of narrow street right of way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- S. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- T. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

- V. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- AA. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- BB. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **MCKAY** seconded the motion, and it carried (13-0).

3. **PUBLIC HEARING – VACATION ITEMS**

- 3-1. **VAC2016-00022: City request to vacate a portion of a platted drainage and utility easement on property,** generally located southeast of Rock Road and 29th Street North, west of Wilderness Circle on the west side of Wilderness Court (2607 N Wilderness Court).

- APPLICANT/AGENT:** Daryl A & Janice S Crotts (applicant/owner) Savoy Comp., PA, c/o Mark Savoy
- LEGAL DESCRIPTION:** Generally described as vacating an approximately 7.45 feet to 15.81 feet wide portion of a platted 40-foot drainage and utility easement located and running to the rear yard of Lot 2, Block 1, Wilderness 5th Addition, Wichita, Sedgwick County, Kansas (see exhibit and attached legal)
- LOCATION:** Generally located southeast of North Rock Road and East 29th Street North, west of Wilderness Circle on the west side of Wilderness Court (2607 N Wilderness Court5 - WCC II)
- REASON FOR REQUEST:** Build a swimming pool
- CURRENT ZONING:** The site and all abutting and the adjacent properties are zoned SF-5 Single-Family Residential.

The applicant is requested the vacation of an approximately 7.45 feet to 15.81 feet wide of the east portion of a platted 40-foot drainage and utility easement located and running to the rear yard of Lot 2, Block 1, Wilderness 5th Addition; see attached legal and exhibit. The Wilderness 5th Addition consists of two lots. A proposed pool is the reason for the vacation request. A portion of the subject easement is proposed to remain in in the 100-year Floodplain, as is the west abutting golf course, the result of the drainage of Middle Branch of Gypsum Creek being located in this area. The proposed pool itself does not appear to be located within the 100-year Floodplain. There is an existing pedestrian bridge located/encroaching in the west approximately 21 feet of the subject easement that is located almost entirely in the 100-year Floodplain. The bridge crosses over into the west abutting golf course. The north abutting property, Lot 22, Block 1, Wilderness 4th Addition, has a platted 20-foot utility easement that abuts the subject easement. There is no water or sewer utilities located in the subject easement. Stormwater has reviewed the request and has no objection. Westar has no objection to this request. Becky Thompson is the Construction Services Representative for the Westar Northeast Area has already worked with the applicant and helped obtained the letter included with this item from Westar Energy Real Estate Services. She is the contact for this vacation request and can be reached at 261-6320. The applicant has provided letters from Westar, AT&T, Cox Communication and an E-mail from Black Hills Energy that agree to allow the encroachment with the applicant agreeing to not to hold the utilities responsibly for damage to the pool or of the utility not having equipment in the area of the easement. These agreements will be recorded with the Register of Deeds and will run with the land. The Wilderness 5th Addition was recorded May 5, 1989.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion(s) of the platted drainage and utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 30, 2016, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portion of platted drainage and utility easement and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Review and approval by Stormwater-Public Works is required for the proposed pool and the existing bridge. This must be provided prior to VAC2016-00022 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) Provide a legal description of the vacated portion of the platted drainage and easement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2016-00022 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) All improvements shall be according to City Standards and at the applicants' expense. Any relocation or removal of service due to this vacation request will be at the applicant's expense.
- (4) The applicant has provided letters from Westar, AT&T, Cox Communication and an E-mail from Black Hills Energy that agree to allow the encroachment with the applicant agreeing to not to hold the utilities responsibly for damage to the pool or of the utility not having equipment in the area of the easement. These agreements will be recorded with the Register of Deeds and will run with the land.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Review and approval by Stormwater-Public Works is required for the proposed pool and the existing bridge. This must be provided prior to VAC2016-00022 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) Provide a legal description of the vacated portion of the platted drainage and easement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2016-00022 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) All improvements shall be according to City Standards and at the applicants' expense. Any relocation or removal of service due to this vacation request will be at the applicant's expense.
- (4) The applicant has provided letters from Westar, AT&T, Cox Communication and an E-mail from Black Hills Energy that agree to allow the encroachment with the applicant agreeing to not to hold the utilities responsibly for damage to the pool or of the utility not having equipment in the area of the easement. These agreements will be recorded with the Register of Deeds and will run with the land.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (13-0).

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- 3-2. VAC2016-00023: City request to vacate a portion of a platted front setback on property**, generally located west of Edgemoor Drive on the south side of Central Avenue (5429 E. Central).

APPLICANT/OWNER: America's Drive-In Restaurants, LLC, c/o Wade Harden
(applicant/owner)

LEGAL DESCRIPTION: Generally described as vacating the south 15 feet of the platted 35-foot front yard setback located on and running parallel to the north property line of Lot 1, Ronald H Groves Addition, and Central Avenue, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of Edgemoor Drive on the south side of Central Avenue (5429 E. Central - WCC I)

REASON FOR REQUEST: New Sonic

CURRENT ZONING: The site and the abutting west and east properties are zoned LC Limited Commercial. Adjacent (across Central Avenue) north properties are zoned LC and NR Neighborhood Retail. Abutting south properties are zoned TF-3 Two-Family Residential

The applicant is requested the vacation of the south 15 feet of the platted 35-foot front yard setback located on and running parallel to the north property line of the LC Limited Commercial ("LC") zoned Lot 1, Ronald H Groves Addition, and Central Avenue. Per the UZC the LC zoning district has a 20-foot minimum front yard setback. The applicant's requests reduces the platted 35-foot setback to 20 feet. A previous vacation, V-2176, vacated the south 13 feet of a center portion of the subject setback; approved July 13, 1999. There are no public utilities located within the subject setback. Utility poles are located in the Central Avenue right of way. Westar has equipment in the right-of-way on the north line of this area along Central Avenue. Westar has no objection to this request as condition # 3 will cover Westar. However the applicant does need to maintain proper clearance, per the Service Standards advising the proper clearance information. Becky Thompson is the Construction Services Representative for the Westar Northeast Area and can be the contact for this vacation request. She can be reached at 261-6320. The Ronald H Groves Addition was recorded April 15, 1977.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted front yard setback.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 30, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of platted front yard setback and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide a legal description of the vacated portion of the platted front yard setback on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00023 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (2) As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00023 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00023 proceeds to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a legal description of the vacated portion of the platted front yard setback on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00023 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00023 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00023 proceeds to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.

- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (13-0).

- **3-3. VAC2016-00024: City request to vacate portions of platted setbacks on property,**
located on the northwest corner of Ridge Road and Maple Street (277 S. Ridge).

APPLICANT/AGENT: Maple & Ridge LLC, c/o John E Dugan (applicant/owner) PEC, c/o Charles Brown (agent)

LEGAL DESCRIPTION: Generally described as vacating the west and north 15 feet of the platted 35-foot front and street side yard setbacks located on and running parallel to the east and south property lines of Lot 2, Westview 3rd Addition, and Ridge Road and Maple Street, Wichita, Sedgwick County, Kansas

LOCATION: Generally located on the northwest corner of Ridge Road and Maple Street (277 S. Ridge – WCC V).

REASON FOR REQUEST: Construction of fuel canopy

CURRENT ZONING: The site and the abutting west and north properties and the adjacent south (across Maple Street) and east (across Ridge Road) properties are zoned LC Limited Commercial

The applicant is requested the vacation of the west and north 15 feet of the platted 35-foot front and street side yard setbacks located on and running parallel to the east and south property lines of the LC Limited Commercial (“LC”) zoned Lot 2, Westview 3rd Addition, and Ridge Road and Maple Street. Per the UZC the LC zoning district has a 20-foot minimum front yard setback and a 15-foot minimum street side yard setback. The applicant’s requests reduces the platted 35-foot setbacks to 20 feet. There is a platted triangular shaped drainage easement located in the southeast corner of the subject property. Stormwater conduit located in this platted drainage easement; the platted drainage easement will remain in effect. There are no public utilities located within the subject setback. Utility poles are located in the Ridge Road and Maple Street right of ways. Westar has equipment and lines along Ridge Road and

Maple Street. Westar has no objection to this request condition, as # 3 will cover Westar. However the applicant does need to maintain proper clearance, per the Service Standards advising the proper clearance information. Ennid Garcia is the Construction Services Representative for the Westar Southwest Area, will be the contact for this vacation request and can be reached at 261-6859. The Westview 3rd Addition was recorded August 11, 1981.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portions of the platted front yard and street side yard setbacks.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 30, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of platted front yard and street side yard setbacks and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide a legal description of the vacated portion of the platted front and street side yard setbacks on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00024 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00024 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00024 proceeds to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.

- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a legal description of the vacated portion of the platted front and street side yard setbacks on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00024 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00024 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00024 proceeds to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (13-0).

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- 3-4. **VAC2016-00025: City request to vacate portions of platted setbacks, utility easements and the platlor's text on property,** generally located at the southeast corner of 21st Street North and Rock Road (2132 N. Rock).

APPLICANT/AGENT: BF Wichita LLC, c/o Amy Liebau (applicant/owner) MKEC Engineering, Inc, c/o Brian Lindebak

LEGAL DESCRIPTION: Generally described as vacating the east 25 feet of the platted 60-foot platted setback located on and running parallel to the east side of Lot 5, Block 1, the east 65 feet of the platted 100-foot platted setback located on and running parallel to the east side of Lot 3, Block 1, the platted 20-foot utility easement, except the east 45 feet, located on and running parallel to the north side of Lot 5, Block 1, the 20-foot by 20-foot utility easement located on the southwest corner of Lot 3, Block 1, and correcting the plat's text, all in the Bradley Fair Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of 21st Street North on the east side of Rock Road (2132 N. Rock – WCC II)

REASON FOR REQUEST: Future development

CURRENT ZONING: The site and the abutting north, east and south properties are zoned LC Limited Commercial and are located within Community Plan Overlays. The adjacent west properties (across Rock Road) are zoned LC and MF-18 Multi-Family Residential

The applicant is requesting the vacation of the east 25 feet of the platted 60-foot platted setback located on and running parallel to the east side of Lot 5, Block 1, the east 65 feet of the platted 100-foot platted setback located on and running parallel to the east side of Lot 3, Block 1, the platted 20-foot utility easement, except the east 45 feet, located on and running parallel to the north side of Lot 5, Block 1, the 20-foot by 20-foot utility easement located on the southwest corner of Lot 3, Block 1, and correcting the plat's text, all in the Bradley Fair Addition.

There are no platted easements in the described portions of the platted setbacks, except the subject easements that are proposed to be vacated. There do not appear to be public utilities located in the area of the vacation of the subject setbacks. The proposed vacation of the platted setbacks will leave 35-foot setbacks which is the minimum requirement for a Community Plan Overlay (CUP); the LC Limited Commercial (LC) zoned subject properties are part of CUP DP-191. The 35-foot setbacks exceeds the 20-foot minimum front yard building setback of the LC zoning district.

Stormwater appears to have a conduit and a manhole in the subject platted 20-foot utility easement, except the east 45 feet, located on and running parallel to the north side of Lot 5. The applicant has stated in their application that they will relocate utilities and provide easements for those relocated utilities. Westar has equipment and lines in the right of way located on the west side of this area along Rock Road. Westar has no objection to this request as condition # 5 will cover Westar. However, the applicant does need to maintain proper clearance, per the Service Standards advising the proper clearance information. Becky Thompson is the Construction Services Representative for the Westar Northeast Area, will be the contact for this vacation request. She can be reached at 261-6320.

The applicant is working with Kansas Gas Service to confirm the status of a gas line located in the subject platted 20-foot utility easement. Planning has provided several contacts with Kansas Gas Service to resolve the status of the gas line.

The change to the platlor's text eliminates an access agreement located on Lots 4 and 3, Block 1, Bradley Fair Addition and introduces a new access agreement located on Lots 5 and 6, Block 1, Bradley Fair Addition. The Bradley Fair Addition was recorded July 16, 1993.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portions of platted setbacks, utility easements and the platlor's text.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 30, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portions of platted setbacks, utility easements and the platlor's text and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Vacate the east 25 feet of the platted 60-foot platted setback located on and running parallel to the east side of Lot 5, Block 1, the east 65 feet of the platted 100-foot platted located on and running parallel to the east side of Lot 3, Block 1, Bradley Fair Addition.
- (2) Review and approval by Public Works, and franchised utilities is required for the proposed vacation. Provided any needed plans for review and approval for the relocation of public and private utilities. This must be provided prior to VAC2016-00025 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Provide a legal description of the vacated portions of the platted easements on a Word document and an exhibit showing the approved vacated portions of the subject easements via E-mail for the Vacation Order. This must be provided prior to VAC2016-00025 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (4) As needed provide easements for public and franchised utilities. As needed provide letters/conformation from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00025 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (5) Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00025 proceeds to the City Council for final action.
- (6) Vacated the platlor's text as shown on the exhibit. Provide a copy of the amended platlor's text on a Word document via E-mail for use in the vacation order. This must be provided to Planning prior to VAC2016-00025 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (7) Update CUP DP-191 to reflect the changes
- (8) All improvements shall be according to City Standards and at the applicants' expense.
- (9) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the east 25 feet of the platted 60-foot platted setback located on and running parallel to the east side of Lot 5, Block 1, the east 65 feet of the platted 100-foot platted located on and running parallel to the east side of Lot 3, Block 1, Bradley Fair Addition.
- (2) Review and approval by Public Works, and franchised utilities is required for the proposed vacation. Provided any needed plans for review and approval for the relocation of public and private utilities. This must be provided prior to VAC2016-00025 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (3) Provide a legal description of the vacated portions of the platted easements on a Word document and an exhibit showing the approved vacated portions of the subject easements via E-mail for the Vacation Order. This must be provided prior to VAC2016-00025 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (4) As needed provide easements for public and franchised utilities. As needed provide letters/conformation from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00025 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (5) Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00025 proceeds to the City Council for final action.
- (6) Vacated the platlor's text as shown on the exhibit. Provide a copy of the amended platlor's text on a Word document via E-mail for use in the vacation order. This must be provided to Planning prior to VAC2016-00025 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (7) Update CUP DP-191 to reflect the changes.
- (8) All improvements shall be according to City Standards and at the applicants' expense.
- (9) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (13-0).

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- 3-5. VAC2016-00026: City request to vacate a platted wall easement on property,**
generally located south of 37th Street North on the east side of Maize Road.

- OWNER/APPLICANT:** Tier 1, LLC, c/o Marvin Schellenberg
- LEGAL DESCRIPTION:** Generally described as vacating the platted 5-foot wide private wall easement running parallel to the south property line of Lot 1, Block 1, Stonebridge Commercial Addition, Sedgwick County, Kansas & eliminating the reference to the subject wall easement in the plattor's text
- LOCATION:** Generally located south of 37th Street North on the east side of Maize Road (WCC V)
- REASON FOR REQUEST:** Not needed
- CURRENT ZONING:** The site and all abutting north, east and south properties are zoned LC Limited Commercial. The adjacent west property, across Maize Road, is located in the City of Maize

The applicant proposes to vacate the platted 5-foot wide wall easement running parallel to the south property line of Lot 1, Block 1, Stonebridge Commercial Addition. Per the plattor's text the wall easement is for the construction and maintenance of a private wall and utilities may cross the wall easement. The plattor's text will be vacated to eliminate the reference to the subject wall easement. There is no wall located in the platted wall easement. Water and sewer lines and a platted drainage and utility easement pass through the east portion of the wall easement; the platted drainage and utility easement will remain in effect. Westar has no objection to this request as condition # 1 will cover Westar. Richard Aitken is the Construction Services Representative for the Westar Northwest Area and will be the contact for this vacation request. He and can be reached at 261-6320. The Stonebridge Commercial Addition was recorded with the Register of Deeds February 6, 2009.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described platted wall easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 30, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portions of platted wall easement and the plattor's text and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the platted wall easement on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the platted wall easement on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.

- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, **RICHARDSON** seconded the motion, and it carried (12-0-1).
FOSTER – Abstained.

- **3-6. VAC2016-00027: City request to vacate easements dedicated by separate instruments on property**, generally located northwest of Kellogg Street and Washington Avenue, on the west side of the vacated Eldora Street.

APPLICANT/AGENT: BBS Real Estate LLC, c/o Keith Stevens (owner) Universal Motor Fuels Inc, c/o Dennis Maloney (applicant) Baughman Company, PA, c/o Phil Meyer

LEGAL DESCRIPTION: Generally described as vacating a 10-foot wide utility easement dedicated by separate instrument (Ordinance 11-499, Misc. Book 121, page 523) located on and running parallel to the east sides of Lots 17-21, Block 2, Santa Fe Addition, & the easement dedicated by separate instrument (Film 403, Page 625) located on and running parallel to portions of the south side of Lot 17, Block 2, Santa Fe Addition Wichita, Sedgwick County, Kansas (see exhibit and attached legal)

LOCATION: Generally located northwest of Kellogg Street and Washington Avenue, on the east side of the vacated Eldora Street (435 S El Dora Street – WCC I)

REASON FOR REQUEST: Construction of a loading dock and expanding entryway stairway

CURRENT ZONING: The site and abutting and the adjacent north and west properties are zoned CBD Central Business District. The adjacent south and east properties are zoned LI Limited Industrial

The applicant is requesting the vacation of a 10-foot wide utility easement dedicated by separate instrument (Ordinance 11-499, Misc. Book 121, page 523) located on and running parallel to the east sides of Lots 17-21, Block 2, Santa Fe Addition and the easement dedicated by separate instrument (Film 403, Page 625) located on and running parallel to portions of the south side of Lot 17, Block 2, Santa Fe Addition. There do not appear to be public utilities located in the subject easements. VAC2014-00055 vacated this portion of El Dora Street, which was retained as a utility easement.

Portions of the Gilbert-Mosley Groundwater Remediation System are located in the area of the vacation. There is no Gilbert-Mosley Groundwater Remediation System equipment in the subject easements. Westar has equipment and lines in Kellogg and Eldora Streets. Westar has no objection to this request as condition # 5 will cover Westar, however the applicant does need to maintain proper clearance, per the Service Standards advising the proper clearance information. Shane Price is the Construction Services Supervisor and will be the contact for this vacation request. Mr. Price can be reached at 261-6315. The Santa Fe Addition was recorded November 17, 1884.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portions of the easements recorded/dedicated by separate instruments.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 30, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portions of the utility easements dedicated by separate instruments and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Review and approval by Public Works, Environmental and franchised utilities is required for the proposed vacation. This must be provided prior to VAC2016-00027 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) Provide a legal description of the vacated portions of the easements recorded/dedicated by separate instruments on a Word document and an exhibit showing the approved vacated portions of the subject easements via E-mail for the Vacation Order. This must be provided prior to VAC2016-00027 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Provide copies of the 10-foot wide utility easement dedicated by separate instrument (Ordinance 11-499, Misc. Book 121, page 523) located on and running parallel to the east sides of Lots 17-21, Block 2, Santa Fe Addition and the easement dedicated by separate instrument (Film 403, Page 625) located on and running parallel to portions of the south side of Lot 17, Block 2, Santa Fe Addition.

- (4) As needed provide easements for public and franchised utilities. As needed provide letters/conformation from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00027 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (5) Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00027 proceeds to the City Council for final action.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Review and approval by Public Works, Environmental and franchised utilities is required for the proposed vacation. This must be provided prior to VAC2016-00027 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) Provide a legal description of the vacated portions of the easements recorded/dedicated by separate instruments on a Word document and an exhibit showing the approved vacated portions of the subject easements via E-mail for the Vacation Order. This must be provided prior to VAC2016-00027 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Provide copies of the 10-foot wide utility easement dedicated by separate instrument (Ordinance 11-499, Misc. Book 121, page 523) located on and running parallel to the east sides of Lots 17-21, Block 2, Santa Fe Addition and the easement dedicated by separate instrument (Film 403, Page 625) located on and running parallel to portions of the south side of Lot 17, Block 2, Santa Fe Addition.

- (4) As needed provide easements for public and franchised utilities. As needed provide letters/conformation from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00027 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (5) Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00027 proceeds to the City Council for final action.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (13-0).

PUBLIC HEARINGS

4. **Case No.: ZON2016-00012 and CON2016-00007 (Deferred from April 21, 2016 and May 5, 2016)** - John & Linda Palmer and Brunswick Properties, LLC (owners/applicants) and Kaw Valley Engineering, c/o Tim Austin (agent) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential to allow ancillary parking (CON2016-00007), an amendment to PO -300 to allow a restaurant and a 10% reduction of the compatibility setback on property described as:

Lot 3, Westview 2nd Addition, Wichita, Kansas, Sedgwick County, Kansas
Together with

The South 160 feet of Lot 9, Block D, Westview Addition, Sedgwick County, Kansas.

BACKGROUND: The subject site, located on the northwest corner of Brunswick and Maple Streets, currently has SF-5 Single-Family Residential (SF-5) zoning on its smaller north portion and NR Neighborhood Retail zoning (NR) with a Protective Overlay (ZON2015-00031 - PO #300) on its larger south portion. The applicants are requesting a zone change from SF-5 to TF-3 Two-Family Residential (TF-3) on the north 187.14-foot by 77-foot with a Conditional Use for ancillary parking. The Unified Zoning Code (UZC) allows consideration of ancillary parking as a conditional use on TF-3 zoned property; UZC. Sec.III-D.6.p.

The applicants are also requesting an amendment to the site's south NR zoned portion's PO: changing provision #1 to allow a 2,000-square foot restaurant with outdoor seating; changing provision # 2 to put in a six-foot tall masonry wall on the north side of the proposed TF-3 zoned property and add a six foot fence along the west property line of the TF-3 zoned portion, and; changing provision #3 to reduce the compatibility setbacks to 10 feet on the west side of the property. The original provisions of PO #300 are:

- (1) Permitted uses are an automated teller machine, a bank or financial institution, general office, personal care services, general retail, personal improvement services and medical offices.
- (2) The hedge like line of mature trees running parallel to the site's west property line shall be maintained or improved as needed to provide a solid landscape buffer. A line of six-foot tall (at the time of planting) evergreens shall be planted on 12-foot centers along the north property line. An eight-foot tall solid fence shall be installed south of the line of evergreens. The rest of the required landscaping shall be per the Landscape Ordinance.
- (3) Compatibility setback, height and light standards and all applicable Unified Zoning Code standards will apply to the development of the site. A drainage plan must be approved by the Public Works.
- (4) No parking or lighting within the rear and interior side yard setbacks.

In reference to the applicants' request to reduce the compatibility setbacks on the west side of the site, compatibility setbacks may be reduced or waived; UZC.V-I.2.d. Currently the NR zoned portion of the site has the full 25-foot compatibility setback on its west side, where it abuts SF-5 zoned single-family residences

The applicant's site plan shows an 8,775-square foot retail building with 59 parking spaces. No individual commercial use that is permitted by-right or as a conditional use within the NR District shall exceed 8,000 square feet of gross Floor Area. If the applicants were to have a permitted by right 2,000-square foot restaurant in the NR zoned portion of the site an approximate estimate of required parking could be 32 parking spaces for just the restaurant. This estimate is based on 45-square feet per seating area (as advised by MABCD) and subtracting a kitchen area of 500-600-square feet from a 2,000-square foot restaurant. However, this calculation does not include the seating or size of the outside patio/dining area. A mix of a 2,000-square foot restaurant and 6,000-square feet of retail (one space per 333-square feet) for the permitted 8,000-square foot building and would require an estimated 50 parking spaces, which the site plan exceeds..

The site plan shows a six-foot tall wooden fence with six-foot tall evergreens located behind the fence on the north line of the proposed ancillary parking. Staff recommends that the landscaping standard of PO #300's be applied to the north property line of the proposed ancillary parking with the exception that the recommended planting of evergreens can be inside or outside the site. The site plan also shows a drive onto Maple Street located on the south approximately 20 feet of the NR zoned portion of the site and two drives onto Brunswick off of both the south and north portions of the site.

SF-5 zoned neighborhoods abut the north and west sides of the subject site. The west abutting SF-5 zoned single-family residences (built in the early 1990s) are separated from the subject site's south portion by a hedge of mature trees and their subdivision's six-foot brick wall. None of the houses located west of the site have front yards facing Maple Street, and their back or interior side yards butt the subject site. A similar landscape buffer does not separate the north abutting SF-5 zoned single-family residences (built late 1970s) from the north portion of the subject site. A LC zoned small Horton's carpet store (built 1996), small commercial strip with gas pumps (built 1983) and an Outback full service restaurant (built 1999) are located east of the site, across Brunswick Street; Z-2337, Z-3162, and Z-3237. The 0.68-acre carpet store and 0.70-acre commercial strip sites present a similar scale of commercial development that could occur on the 1.03-acre subject site, if the conditional use is approved. South of the site, across Maple Street, are the LC and GC General Commercial zoned big box, 17.71-acre Lowes home improvement store (built 1998) and the LC zoned big box, 15.72-acre Target department store (built 2004); Z-3306/DP-37 and Z-3326, ZON2003-00055/DP-270. Lowes and Target are the two largest commercial developments located along the Ridge Road – Maple Street intersection, which includes full service restaurants, casual dining restaurants, furniture stores, commercial and strip buildings.

CASE HISTORY: The south portion of the site, the NR zoned south 160 feet of Lot 9, Block D, Westview Addition was recorded with the Register of Deeds on February 11, 1953. The north portion of the site, Lot 3, Westview 2nd Addition was recorded with the Register of Deeds on November 23, 1976. The subject site was annexed into the city between 1961 and 1970.

On October 6, 2015, the Wichita City Council approved ZON2015-00031, which rezoned the south 160 feet of Lot 9, Block D, Westview Addition from SF-5 to NR Neighborhood Retail with the provisions of Protective Overlay #300 (see background, second paragraph).

At the April 21, 2016, MAPC meeting the property owner requested a zone change from SF-5 to TF-3 Two-Family Residential with a conditional use for ancillary parking on their north property, Lot 9, Westview 2nd Addition and an amendment PO #300 on the their south NR zoned property. The applicant requested a deferral to discuss with the Traffic Engineer their proposal to have a drive onto Maple Street. There were protests at the MAPC meeting. The MAPC approved a deferral until the May 5, 2016 MAPC meeting (see attached minutes).

At the May 3, 2016, DAB V meeting the DAB voted 5-4 to deny the requested TF-3 zoning and the conditional use for ancillary parking and the amendments to PO #300 (see attached DAB memo)

At the May 5, 2016, MAPC meeting the applicant again requested a deferral and the MAPC granted an indefinite deferral (see attached minutes). There were protesters at the MAPC meeting.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5	Single-family residences
SOUTH: LC, GC	Big box home improvement, big box retail
EAST: LC	Carpet sales, small commercial strip, convenience store, restaurant
WEST: SF-5	Single-family residences

PUBLIC SERVICES: The site is served by all normally supplied municipal services. The site has two access drives onto Brunswick Street, a paved two-lane local street which intersects with Maple Street, a paved four-lane arterial, with center-turn lanes at this location. The site currently has an access drive onto Maple Avenue dating from its previous use as a single-family residence built in 1948.

CONFORMANCE TO PLANS/POLICIES: The site is located just outside (separated by Ridge Road) the “Community Investments Plan’s” Established Central Area, which is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The Land Use Compatibility component of the Plan recommends that higher intensity development should be discouraged from locating in areas of existing lower –intensity development, particularly established low intensity residential areas. The subject site abuts urban single-family residential development on its north and west sides.

The Community Investments Plan’s “2035 Wichita Future Growth Concept Map” designates the site as “new employment.” The new employment designation encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The subject site abuts urban scale single-family residential zoning on its north and west sides. The previously approved NR zoned portion of the site, subject to the provisions of PO#300 and the proposed TF-3 zoning with a Conditional Use for ancillary parking fits the just noted development projection of the new employment designation. The subject site’s current NR zoning and PO and the requested TF-3 zoning with a conditional use for ancillary parking serve as a buffer between the area’s LC and GC zoned businesses and the immediate earlier established single-family residential development, thus meeting the Plan’s “Development Pattern” guidelines for areas outside the Established Central Area.

Limiting access to the site to two drives onto the residential street Brunswick, facing LC zoned development and noting that the development is located on the northwest corner of the arterial Maple Street and Brunswick ensures that traffic to and from the site will be directed to the stop sign at that intersection. Eliminating the additional proposed drive onto Maple off of the site provides safer access to the site while minimizing the negative impact of the site’s traffic on the abutting single-family residential neighborhood, which meets the intent of the locational design guide lines of the Plan.

The Maple Street – Ridge Road intersection has experience redevelopment from single-family residential to commercial during the last, at least, two and a half decades. Most of the commercial development has happened south of this intersection, extending south a half-mile to Kellogg Street/Us Highway-54. Commercial development ends approximately 520 feet north of the Maple Street – Ridge Road intersection.

RECOMMENDATION: Approving the TF-3 zoning with a conditional use for ancillary parking on the subject site's north portion does not move commercial zoning further north, but may present an opportunity to make the subject site's NR south portion more marketable, as does allowing a restaurant. If approved, the ancillary parking would abut SF-5 zoned single-family residences/neighborhoods on its north and west sides. The proposed TF-3 zoning provides a buffer for the abutting north property, making a future request for commercial zoning more problematic. The subject site's NR zoned south portion and amending the PO to allow a restaurant allows very-low intensity retail and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods. Staff would not support a future request to expand commercial zoning to the north or the west and would be conflicted to support LC zoning on the NR portion of the site.

Based upon the information available prior to the public hearings, planning staff recommends that the TF-3 zoning and a conditional use for ancillary parking be **APPROVED** subject to the following conditions:

- (1) Six-foot tall evergreens (at the time of planting) shall be planted on 12-foot centers and a six-foot tall masonry wall shall be installed along the north property line of the TF-3 zoned conditional use for ancillary parking. The rest of the site shall conform to the Landscape Ordinance, including the recommended evergreens.
- (2) A six foot tall solid fence shall be installed along the west property line.
- (3) A 25-foot setback shall be located on the north and west property lines of the ancillary parking site. No pole lighting or parking shall be located within these setbacks
- (4) Pole lights shall be no taller than 15 feet, including the base.
- (5) A drainage plan shall be reviewed and approved by Stormwater.
- (6) The ancillary parking shall be developed in accordance with the supplemental use regulations found in Sec.III-D.6.p. as well as all applicable UZC standards and an approved site plan.
- (7) If the Zoning Administrator finds that there is a violation of any of the provisions or conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Planning staff recommends that the following amendments to PO #300 be **APPROVED**:

- (1) Permitted uses in the NR zoned portion of the subject site are automated teller machine, bank or financial institution, general office, personal care service, general retail, personal improvement service, a medical office, and a 2,000-square foot full service restaurant with outside seating (no drive through windows or curb side service). The size of the commercial building in the NR zoned portion of the site is the permitted NR zoning district's total of 8,000 square feet of gross floor area.
- (2) The hedge like line of mature trees running parallel to the site's west property line shall be maintained or improved as needed to provide a solid landscape buffer. The rest of the required landscaping shall be per the Landscape Ordinance.
- (3) Compatibility setback, height and light standards and all applicable UZC standards will apply to the development of the NR zoned portion of the site.
- (4) A drainage plan must be reviewed and approved by Storm Water.
- (5) No parking or lighting within the interior side yard setbacks. No building lighting on the west side of any building on the subject site.
- (6) No signage on the west and north sides of the building located on the subject site.

- (7) Access to the subject site will be limited to one drive onto Brunswick Street and one drive onto Maple Street, as recommended by the Traffic Engineer.
- (8) No internal vehicular circulation between building located on the NR portion of the site and the west abutting SF-5 zoned single-family residential development.
- (9) The subject site including the ancillary parking site will developed as shown on an approved site plan.

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood: SF-5 zoned neighborhoods abut the north and west sides of the subject site. The west abutting SF-5 zoned single-family residences (built in the early 1990s) are separated from the subject site's south portion by a hedge like line of mature trees and their subdivision's six-foot brick wall. None of the houses located west of the site have front yards facing Maple Street and their back or interior side yards butt the subject site. A similar landscape buffer does not separate the north abutting SF-5 zoned single-family residences (built late 1970s) from the north portion of the subject site. A LC zoned small Horton's carpet store (built 1996), small commercial strip with gas pumps (built 1983) and an Outback full service restaurant (built 1999) are located east of the site, across Brunswick Street; Z-2337, Z-3162, and Z-3237. The 0.68-acre carpet store and 0.70-acre commercial strip sites present a similar scale of commercial development that could occur on the 1.03-acres -acre subject site, if the conditional use is approved. South of the site, across Maple Street, are the LC and GC General Commercial zoned big box, 17.71-acre Lowes home improvement store (built 1998) and the LC zoned big box, 15.72-acre Target department store (built 2004); Z-3306/DP-37 and Z-3326, ZON2003-00055/DP-270. Lowes and Target are the two largest commercial developments located along the Ridge Road – Maple Street intersection, which includes full service restaurants, casual dining restaurants, furniture stores, commercial and strip buildings.
- (2) The suitability of the subject property for the uses to which it has been restricted: The north portion of the subject site's current SF-5 zoning allows single-family residences, schools, churches, and parks and is appropriate for the urban residential category. The north portion of the subject site's one story lap siding and brick house's front yard faces Brunswick Street, a paved two-lane residential street, and the LC zoned small Horton's carpet store, small commercial strip with gas pumps and an Outback full service restaurant ; this orientation lessens the appeal of the site's single-family residence.
- (3) The site's NR zoned portion of the site with the provisions PO #300 allows very-low intensity retail and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods.
- (4) Extent to which removal of the restrictions will detrimentally affect nearby property: Approving the TF-3 zoning with a conditional use for ancillary parking amending the PO of the NR zoned portion of the site to allow a restaurant without drive through or curb side service would seem to have a minimal negative effect on the abutting single-family residential development.

- (5) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The site is located just outside (separated by Ridge Road) the “Community Investments Plan’s” Established Central Area, which is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The Land Use Compatibility component of the Plan recommends that higher intensity development should be discouraged from locating in areas of existing lower –intensity development, particularly established low intensity residential areas. The subject site abuts urban single-family residential development on its north and west sides.
- (6) The Community Investments Plan’s “2035 Wichita Future Growth Concept Map” designates the site as “new employment.” The new employment designation encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The subject site abuts urban scale single-family residential zoning on its north and west sides. The previously approved NR zoned portion of the site, subject to the provisions of PO#300 and the proposed TF-3 zoning with a Conditional Use for ancillary parking fits the just noted development projection of the new employment designation. The subject site’s current NR zoning and PO and the requested TF-3 zoning with a conditional use for ancillary parking serve as a buffer between the area’s LC and GC zoned businesses and the immediate earlier established single-family residential development, thus meeting the Plan’s “Development Pattern” guidelines for areas outside the Established Central Area.
- (7) Limiting access to the site to two drives onto the residential street Brunswick, facing LC zoned development and noting that the development is located on the northwest corner of the arterial Maple Street and Brunswick ensures that traffic to and from the site will be directed to the stop sign at that intersection. Eliminating the additional proposed drive onto Maple off of the site provides safer access to the site while minimizing the negative impact of the site’s traffic on the abutting single-family residential neighborhood, which meets the intent of the locational design guide lines of the Plan.
- (8) The Maple Street – Ridge Road intersection has experience redevelopment from single-family residential to commercial during the last, at least, two and a half decades. Most of the commercial development has happened south of this intersection, extending south a half-mile to Kellogg Street/Us Highway-54. Commercial development ends approximately 520 feet north of the Maple Street – Ridge Road intersection.
- (9) Impact of the proposed development on community facilities: With the recommended provisions for access controls, there will be minimal impact on community facilities.

BILL LONGNECKER, Planning Staff presented the Staff Report.

RICHARDSON asked about staff’s recommendation on the west compatibility setback – was it a 10% reduction or 10 feet.

LONGNECKER said staff's recommendation was to maintain the compatibility setback which was 25 feet. He said the applicant was requesting a 10% reduction of that. He said in addition staff was recommending that there will be no parking, no lighting and no internal circulation to the west.

RICHARDSON asked about the total number of entrances/exits.

LONGNECKER reiterated that on the original application staff did not want any access onto Maple Street; however, Traffic Engineering reconsidered and decided to allow access onto Maple Street in the hopes of cutting down traffic onto Brunswick. He said there will be one access onto Brunswick and one onto Maple Street.

RICHARDSON clarified that staff was recommending inclusion of the restaurant even though that was previously denied by the Planning Commission.

LONGNECKER explained that the Planning Commission did not deny the restaurant, the previous applicant's agent offered to eliminate that as a use.

RICHARDSON asked for information on the cul-de-sac or hammerhead on Brunswick.

LONGNECKER said since that was between the neighbors and the agent for the property owners and planning staff was not involved in that discussion, he would let the neighbors and the agent address that issue.

RICHARDSON asked about the chain link fence on Douglas.

LONGNECKER indicated that Douglas dead ends into a cul-de-sac which was for emergency access only, that was the purpose of the chain link at the location.

ELLISON asked about the fencing on the north side of the property.

LONGNECKER said the applicant volunteered a 6-foot masonry wall which is included in staff's recommendation.

TIM AUSTIN, KAW VALLEY ENGINEERING, 200 N. EMPORIA, AGENT FOR THE APPLICANT said they are in agreement with staff recommendations. He said the hammerhead idea was something that developed after discussion at the DAB meeting where neighbors expressed concerns about traffic and especially commercial traffic going north on Brunswick. He said they prepared some geometric concepts and visited with Mr. Gish (the neighbor directly to the north of the site) and asked him to circulate the proposal to his neighbors to see if there was any support for the idea. He said ultimately the neighbors did not support that idea. He said that was the reason for the second request to defer the item. He said they agreed to install a 6-foot masonry wall to the north and landscaping on the north side of the wall. He apologized for not having an updated site plan.

JASON GISH REPRESENTING HIS BROTHER JARED GISH, 227 N. BRUNSWICK who he said owns the property directly north of the site. He mentioned neighbors' concerns about the development and trying to place ancillary parking for a use that was previously pulled (a restaurant) in order to get the zoning approved on the property. He said to come back now and ask for a restaurant and put the parking adjacent to residential is unfortunate. He said this will have a great impact on the viability and value of that residential property. He mentioned restaurant employees getting off of work, being in the back for smoking breaks, listening to radios, lighting and a number of other issues. He said ancillary parking is not compatible in this area. He asked about the access point onto Brunswick and where that would be located. He said asking for ancillary parking at this location is a big game changer. He said if the applicants request is approved it will take more than a 6-foot wall and trees to mitigate the impact of this use. He concluded by mentioning that the screening and existing wall at Outback is not maintained and does not meet code. He mentioned that they realize those kinds of things are difficult to police and maintain by city staff. He said they believe this will create more erosion into a single-family neighborhood and not create any benefit.

RICHARDSON asked if there would be more support if there was not a restaurant in the proposal.

GISH replied that there would be more support if all the parking was not directly adjacent to residential zoning. He said it would be more ideal if the building could be moved further north on the site.

RICHARDSON said the building can't be moved unless the section was zoned NR.

ELLISON clarified that the neighbors don't want to block off the street with a cul-de-sac and want the building moved to the north.

GISH said the issue with a cul-de-sac was having the connection to Maple Street. He said moving the building to the north was something he came up with from an architectural standpoint but it is not a good use next to residential because of noise, lights, etc. He said had his brother known that his neighbor to the south would sell out he would have made provisions to look for a different place to live earlier.

RICHARDSON asked if the Commission could determine where the building is located on the site.

DIRECTOR MILLER said whatever the Commission thinks is appropriate and reasonable to make the site work.

KNEBEL commented that the TF-3 portion of the site was not advertised for rezoning so that would require a whole separate rezoning application process.

PAT O'BRYAN, 221 S. AND 101 S. BRUNSWICK said the neighborhood wants no entrances on Brunswick and no restaurant. He said the neighborhood already has a problem cleaning up the trash from Lowes. He said he keeps hearing about the "Quality of Life" on the City's television site but this proposal will just about kill it for this neighborhood. He mentioned making some "dog legs" but the developer said it was too expensive for him. He said this just boils down to whether you want to give the developer maximum profits or protect a little neighborhood that is being squeezed pretty hard. He concluded by saying that the cul-de-sac was mentioned haphazardly as a backup. He said he took that cheap, junk proposal around the neighborhood but a lot of people who live to the north like access onto Maple Street.

ELLISON said he doesn't know what the speaker means by a "cheap" cul-de-sac.

O'BRYAN said the hammerhead was towards Horton's, not on the developers property. He said the neighborhood felt it was ill conceived and not worth recommending.

ELLISON asked if additional screening on the north side of the property in the form of a masonry wall, more green area and a lot more trees would solve any problems.

O'BRYAN said that won't solve any problems if the Commission allows a restaurant or an entrance onto Brunswick.

DAILEY mentioned that the restaurant will not have a drive up window so he doesn't understand why it would generate trash.

O'BRYAN responded that this lot has been through three different zone changes. He said at first it was going to be for offices, but now they are talking about a restaurant. He asked once they get the restaurant, what is to stop them from making a change that allows a drive-thru window.

DAVID WOODROW, 140 S. BRUNSWICK said he had several points of contention. He said there are 18 restaurants along Ridge Road from the Outback to Kellogg. He asked, do we need another restaurant in this area at all. He referred to the site map and questioned how the large delivery vehicles were going to access it, unload and exit back out. He said that means they will be parking along Brunswick. He said that creates traffic flow problems and safety hazards for the area. He commented that there is a plot of ground in front of the Target store 300 feet to the west that is available for development.

AUSTIN asked the Commission to keep in mind that the lot is already approved for commercial use so it will generate a certain level of traffic regardless of whether a restaurant is there or not. He said there is already going to be commercial traffic. He said from his perspective it is a matter of intensity of use. He said there will be an incremental amount of traffic generated by a restaurant. He said restaurants are considered appropriate for NR zoning. He commented that his client was not the owner at the time that this property was rezoned. He said the agent at that time was trying to get a medical use on the property and offered up elimination of restaurant use as a point of compromise. He said as far as taking "multiple

bites of the apple” the Commission knows that happens and that is why they hold these hearings and have a process that allows that to happen. He said the proposed hammerhead was designed in accordance with City Subdivision Regulations and was on the client’s property. He said he understands that Mr. Gish (property owner directly to the north) has his home on the market and has a contract pending on it so he has made his decision. He said they would be willing to move the wall 10-15 feet and increase the green buffer between the properties.

RAMSEY asked if the client was aware that the zoning excluded restaurants when they purchased it.

AUSTIN replied yes.

DAILEY commented that he didn’t know where food vendor semi-trucks were going to unload at the location the way the site plan is set up.

AUSTIN commented that was an excellent question and added that the food delivery trucks were usually smaller than semis so the parking lot would be sufficient to handle that. He commented that his client bought this to create retail space because there is a lot of interest in this area but has received inquiries about a restaurant at the location.

RICHARDSON commented that he voted for this originally because the restaurant was eliminated as a use. He said since then the Commission has learned that the City has no control over restaurant odors so their only choice is to decide where restaurants can be built.

DENNIS (Out @2:35 p.m.)

MOTION: To approve subject to staff recommendation without the restaurant.

RICHARDSON moved, **FOSTER** seconded the motion.

LONGNECKER clarified that the request for TF-3 zoning with ancillary parking is specifically for the restaurant. He said if the restaurant is removed, there is enough parking on the NR site for the general retail.

RAMSEY asked then wouldn’t that just be a flat out denial.

LONGNECKER replied yes.

RAMSEY commented that when the Planning Commission first heard this case they specifically approved it without a restaurant. He said the previous case would not have been approved with a restaurant. He said he doesn’t think anything has really changed and the person who bought the property did it knowing that a restaurant was an excluded use.

TODD said he agreed with Commissioner Ramsey and commented that the client purchased the property knowing the limitations. He said this is a clear case that the surrounding property owners were there first.

SUBSTITUTE MOTION: To deny the application.

RAMSEY moved, **TODD** seconded the motion, and it carried (11-1-1). **GOOLSBY** – No; **DENNIS** – Abstained.

GOOLSBY and **RAMSEY** (Out @2:40 p.m.)

5. **Case No.: ZON2016-00025** - Ceasar Morales (owner) and Jeff Niedens (agent) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lot 24, Block 10, Orchard Park, Sedgwick County, Kansas.

BACKGROUND: The applicant requests TF-3 Two-Family Residential (TF-3) zoning on a 0.14-acre platted lot. The vacant, corner lot has 50 feet of frontage along North Mount Carmel Avenue and 135 feet of frontage along West 2nd Street. The applicant intends to develop a duplex on the site. The lot meets the Unified Zoning Code (UZO) minimum lot dimensions and size for a duplex in TF-3 zoning.

The surrounding neighborhood is primarily zoned SF-5 Single-family Residential (SF-5) and developed with single-family residences. However, over a dozen lots of TF-3 zoning exist within this neighborhood between Clara Street and Florence along W. 2nd Street. North of the site on W. 2nd are SF-5 and TF-3 zoned single- and two-family residences. East, south and west of the site are SF-5 zoned single-family residences.

CASE HISTORY: The site was platted as Lot 24, Block 10 of the Orchard Park Addition in 1929.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5; TF-3	Single-family and Two-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: West 2nd Street is a paved, two-lane local street at this location with a 70-foot right-of-way. Baehr is a paved, two-lane local street at this location with a 60-foot right-of-way. All public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan also encourages development of a variety of lot sizes and housing types within the Established Central Area. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The surrounding neighborhood is primarily zoned SF-5 and developed with single-family residences. However, over a dozen lots of TF-3 zoning exist within this neighborhood between Clara Street and Florence along W. 2nd Street. North of the site on W. 2nd are SF-5 and TF-3 zoned single- and two-family residences. East, south and west of the site are SF-5 zoned single-family residences.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The vacant site is currently zoned SF-5 and could be developed with a single-family residence.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal; duplexes and TF-3 zoning are common within the surrounding blocks. A duplex on the site could be better for the neighborhood than a vacant lot.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan also encourages development of a variety of lot sizes and housing types within the Established Central Area. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality.
- (5) **Impact of the proposed development on community facilities:** All services are in place. Any increased demand on community facilities can be handled by existing infrastructure.

KATHY MORGAN, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

RAMSEY moved, RICHARDSON seconded the motion, and it carried (13-0).

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6. **Case No.: ZON2016-00028** - Masoud Etezazi (owner/applicant) and Conco, Inc., c/o Kyle Blasdel (agent) request a City zone change from B Multi-family Residential and SF-5 Single-family Residential to LC Limited Commercial on property described as:

Lot 1, except the north 10 feet thereof, and all of Lots 3, 5, 7, 9, 11, 13, 15, 17, 19, 21 and 23, on Guy, now Piatt Avenue, in Parkview Addition to Wichita, Kansas, Sedgwick County, Kansas.
TOGETHER WITH

Lot 2, except the north 10 feet thereof, and all of Lots 4, 6, 8, 10 and 12, on Sedgwick, now Minnesota Avenue, in Parkview Addition to Wichita, Kansas, Sedgwick County, Kansas.
TOGETHER WITH
Lot 1, Conway Addition to Wichita, Sedgwick County, Kansas, EXCEPT that portion platted as U.N.B. 2nd Addition, Wichita, Sedgwick County, Kansas.

CHAIR NEUGENT announced that the case was deferred until the August 18, 2016 Planning Commission Meeting.

7. **Case No.: ZON2016-00029** - Michael and Iris McCready (owners/applicants) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lot 1, Maple Hill Addition, Sedgwick County, Kansas.

BACKGROUND: The applicants request a conditional use for an “accessory apartment” on the southeast corner of West platted SF-5 Single-Family Residential zoned lot located on the southwest corner of Maple Street and South Country View Lane. The site is developed with a 2,208-square foot single-story residence (built 1966) and a large garage. The applicant is converting a portion of the garage into an accessory apartment.

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines an “accessory apartment” (Art. II.Sec. II-B.1.b) as a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit. Accessory apartments are also subject to supplementary use regulation Art. III.Sec.III-D.6.a (1) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment; (2) the appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood; (3) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and (4) the water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

The site is located in an area where Wichita and Sedgwick abut each other. The area the site is located in is zoned SF-5. SF-5 zoned single-family residences abut the south and west sides of the site. SF-5 zoned single-family residences are adjacent, across Country View Lane, to the east side of the site. The single-family residences in these areas were built in the mid to late 1960s up to as recently as 2007. SF-5, SF-20 Single-Family Residential and RR Rural Residential zoned properties are located north of the site, across Maple Street. Development in the area north of the site include partially developed urban scale subdivisions (recorded May 8, 2003 & March 15, 2006), two single-family residences (built 1978, 1986) on large tracts and agricultural land. An anomaly to the development in the area is a LC and SF-5 zoned recreational vehicle (RV) campground that may have been established in 1965.

CASE HISTORY: The subject property is described as Lot 1, Maple Hill Addition, which was recorded with the Register of Deeds January 5, 1965.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, SF-20, RR	Single-family residences, large tract single-family residences, agricultural land, RV campground
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. The site has access onto Country View Lane, a sand and gravel residential street. Country View Lane intersects with the paved, two-lane arterial Maple Street.

CONFORMANCE TO PLANS/POLICIES: The “2035 Wichita Future Growth Concept Map” shows the site and the area it is located in as “residential.” The residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, playgrounds, small parks and other similar residential- serving uses are located in these areas. The site is located outside of the established central area of Wichita. An accessory apartment may be considered as a conditional use in the SF-5 zoning district, which is a common request.

RECOMMENDATION: The surrounding area has well-established residential land uses. Based on information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to the following conditions:

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan, the approved elevation drawing, and in conformance with all applicable regulations, including but not limited to: local zoning, including Article III, Section III-D.6 .a.(1)-(4); building, fire and utility regulations or codes.
2. An approved site plan for the entire lot and an elevation drawing approved by planning staff, indicating dimensions and exterior materials.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is located in an area where Wichita and Sedgwick abut each other. The area the site is located in is zoned SF-5. SF-5 zoned single-family residences abut the south and west sides of the site. SF-5 zoned single-family residences are adjacent, across Country View Lane, to the east side of the site. The single-family residences in these areas were built in the mid to late 1960s up to as recently as 2007. SF-5, SF-20 Single-Family Residential and RR Rural Residential zoned properties are located north of the site, across Maple Street. Development in the area north of the site include partially developed urban scale subdivisions (recorded May 8, 2003 & March 15, 2006), two single-family residences (built 1978, 1986) on large tracts and agricultural land. An anomaly to the development in the area is a LC and SF-5 zoned recreational vehicle (RV) campground that may have been established in 1965.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned SF-5 which permits the existing single-family residence. The SF-5 zoning is characteristic of the area's zoning. An accessory apartment may be considered as a conditional use in the SF-5 zoning district, which is a common request.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2035 Wichita Future Growth Concept Map" shows the site and the area it is located in as "residential." The residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, playgrounds, small parks and other similar residential-serving uses are located in these areas. The site is located outside of the established central area of Wichita. An accessory apartment may be considered as a conditional use in the SF-5 zoning district, which is a common request.
5. Impact of the proposed development on community facilities: If this request is approved, the site is served by municipal services that are able to accommodate projected demand created by this request.

KATHY MORGAN, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

RAMSEY moved, **RICHARDSON** seconded the motion, and it carried (13-0).

8. **Case No.: ZON2016-00030** - Nevets, Inc., and Manheim Auto Auctions (owner/applicant) and Ferris Consulting, c/o Greg Ferris (agent) request a City zone change from GC General Commercial to LI Limited Industrial for vehicle sales without paved parking/display on property described as:

Lot 1 except the East 40 feet and the South 90 feet and the point in Lot 1 described as 40 foot wide strip of land lying Easterly and parallel with abutting and perpendicular to West line of Lot 1, Rosson Addition; and the North 210 feet of Lot 2, Rosson Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting LI Limited Industrial (LI) zoning on the 1.91-acre, platted GC General Commercial (GC) zoned site located south of East Kellogg Street/US-54 Highway on the southeast corner of North Webb Road and East Orme Street. There is a 5,800-square foot warehouse office (built 1985) located on the site. The applicant is requesting LI zoning to allow auto sales on the site, which is permitted by right in the GC and LI zoning districts. However, the Unified Zoning Code (UZC) requires all parking, outdoor storage and display areas to be paved with concrete, asphalt or asphaltic concrete or any comparable hard surfacing material for car sales in the GC zoning district; UZC Sec.III-D.6.hh. There is no requirement for paving of outdoor storage and display areas in the LI zoning district. The 1.91-acre subject site's parking areas are paved except approximately the east 85 feet, thus the request.

The GC zoned subject site is currently an auto detail shop, Auto Boutique, which provides interior and exterior cleaning, minor dent repair, window repair, and similar services. The applicant, Manheim Auto Auctions (per their web site), is an international wholesale vehicle auction business (on-line or on-site), that also provides chip repair, auto body repair, partial bumper repair, paint-less dent repair, key replacement/locksmith services, pin striping, wet sand and buff, wheel repair, windshield repair, and windshield replacement. All of the current and proposed activities are permitted by right in the GC zoning district. Some Manheim sites also hold salvage auctions of inoperable vehicles and parts. The applicant has not indicated if the subject site would hold salvage auctions, which would require a conditional use in the LI zoning district.

The site is located in an area bordered by Kellogg Street on the north, I-35 on the south, Webb Road on the west and Greenwich Road on the east. The area is developed with large car sales lots, big box retail, commercial strips and stand-alone retail/commercial and the Beechcraft Aircraft manufacturing facility. The area is currently impacted by the construction of the Kellogg/US-54 improvements, which is targeted for completion in 2019-2020.

GC zoning is the predominate zoning in the area, except for approximately 11-acres of LI (ZON2015-00052/PO-307) undeveloped land, six SF-5 zoned single-family residences (built 1954 and early 1970s) and some LC Limited Commercial sites located by Greenwich Road. The more immediate area has a GC zoned partially occupied (Groves Liquor Store) retail box (built 1992), Discount Auto Sales (built 1970) and a body shop (built 1999) located north of the site, across Orme Street. The long established

(1940) LI zoned Beechcraft Aircraft manufacturing facility is located further north of the site, across Kellogg Street, as is the LI zoned Costco Store (built 2015). Beechcraft is the largest single-development in the area. A GC zoned collision repair shop (built 1980) abuts the south side of the site. I-35 is located south of the collision repair shop and a SF-5 Single-Family Residential (SF-5) zoned church is located south of I-35. A GC zoned office (built 2002) abuts the east side of the site, with vacant GC zoned property and a Pittsburg Paints warehouse (built 2007) located further east of the site. Webb Road abuts the west side of the site. There is an LI zoned retail store located on the west side of Webb Road. A Kansas Turnpike Authority (KTA) service and repair yard and buildings is also located west of the site within the Kellogg – I-35 interchange right of way

CASE HISTORY: The site is located on portions of Lots 1 and 2, Rosson Addition, which was recorded with the Register of Deeds May 16, 1978.

ADJACENT ZONING AND LAND USE:

NORTH: GC, LI Partially occupied big box retail with retail liquor store tenant, aircraft manufacturing facility, big box retail
SOUTH: GC, SF-5 Collision repair shop, I-35, church.
EAST: GC Office, vacant land, warehouse, car sales
WEST: LI Webb Road, retail building, KTA service and repair yard and buildings

PUBLIC SERVICES: All utilities are available to the site. Access to the site is provide by Orme Street, a paved two-lane, local street, which intersects with the paved four-lane arterial Webb Road.

CONFORMANCE TO PLANS/POLICIES: The “2035 Wichita Growth Concept Map” of the Comprehensive Plan identifies the general location as appropriate for “new employment” development. This category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks are likely to be developed as well, based on market driven factors. Higher density housing and convenience centers are also development possibilities. In areas of existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials like will be developed. There are no existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials in this area. The area is developed with large car sales lots, big box retail, commercial strips, stand-alone retail/commercial and the Beechcraft Aircraft manufacturing facility.

The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The requested LI zoning district can be compatible with the new employment classification. If approved the proposed LI zoning would meet for all practical purposes the locational criteria of industrial land having direct access to arterial roads, in this case the abutting four-lane arterial Webb Road via a short distance on the paved two-lane Orme Street. The requested LI zoning would allow the applicant to sale vehicles on an unpaved surface, a curious request considering that all of the 1.91-acre site is paved except for approximately the east 85 feet of the site. The requested LI zoning is partially in character with the area. The LI zoning does not allow wrecking and salvage nor the sale of wrecked vehicles or salvaged parts without conditional use approval.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed LI zoning be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the surrounding area:** GC zoning is the predominate zoning in the area, except for approximately 11-acres of LI (ZON2015-00052/PO-307) undeveloped land, six SF-5 zoned single-family residences (built 1954 and early 1970s) and some LC Limited Commercial sites located by Greenwich Road. The more immediate area has a GC zoned partially occupied (Groves Liquor Store) retail box (built 1992), Discount Auto Sales (built 1970) and a body shop (built 1999) located north of the site, across Orme Street. The long established (1940) LI zoned Beechcraft Aircraft manufacturing facility is located further north of the site, across Kellogg Street, as is the LI zoned Costco Store (built 2015). Beechcraft is the largest single-development in the area. A GC zoned collision repair shop (built 1980) abuts the south side of the site. I-35 is located south of the collision repair shop and a SF-5 Single-Family Residential (SF-5) zoned church is located south of I-35. A GC zoned office (built 2002) abuts the east side of the site, with vacant GC zoned property and a Pittsburg Paints warehouse (built 2007) located further east of the site. Webb Road abuts the west side of the site. There is an LI zoned retail store located on the west side of Webb Road. A Kansas Turnpike Authority (KTA) service and repair yard and buildings is also located west of the site within the Kellogg – I-35 interchange right of way.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site's current GC zoning allows car sales by right, but requires the paving of parking, outdoor storage and display areas. The proposed LI zoning allows car sale by right but does not require requires the paving of outdoor storage and display areas. The applicant does not want to pay for the paving of outdoor storage and display areas on the east 85 feet of the site. The proposed LI is partially in character with the area's existing LI and GC zoning, although GC zoning is the predominate zoning on lands located south of Kellogg Street, such as the subject site.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The GC zoned Discount Auto Sales, located northeast of the site has vehicles, some in various stages of repair, some parked/stored on unpaved surfaces. Some Manheim sites also hold salvage auctions of inoperable vehicles and parts. The applicant has not indicated if the subject site would hold salvage auctions, which would require a conditional use in the LI zoning district.

- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** “2035 Wichita Growth Concept Map” of the Comprehensive Plan identifies the general location as appropriate for “new employment” development. This category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks are likely to be developed as well, based on market driven factors. Higher density housing and convenience centers are also development possibilities. In areas of existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials like will be developed. There are no existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials in this area. The area is developed with large car sales lots, big box retail, commercial strips, stand-alone retail/commercial and the Beechcraft Aircraft manufacturing facility.

The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The requested LI zoning would allow the applicant to sale vehicles on an unpaved surface, a curious request considering that all of the 1.91-acre site is paved except for approximately the east 85 feet of the site. The requested LI zoning is partially in character with the area. The LI zoning does not allow wrecking and salvage nor the sale of wrecked vehicles or salvaged parts without conditional use approval.

- (1) **Impact of the proposed development on community facilities:** The site may generate an additional amount of industrial truck traffic onto Orme Street, which allows access onto the four-lane arterial Webb Road.

BILL LONGNECKER, Planning Staff presented the Staff Report.

RICHARDSON asked if there was another way to do this such as a variance as opposed to introducing a whole new zoning.

LONGNECKER said staff did not consider this as a variance. He said the applicant asked for LI zoning specifically not to have to pave the area. He said he might ask the applicant.

RICHARDSON asked about vehicle sales to the north and east of this site.

LONGNECKER said he was he was not sure how they are doing what they are doing and added that he understands there have been complaints on the sites.

MILLER STEVENS asked if there were any signage issues.

LONGNECKER replied no. He added that the current business which is a detail shop is permitted by right in GC zoning.

JOHNSON asked if the Commission could look at this as a transitional use with a time limit.

JEFF VANZANDT, ASSISTANT CITY ATTORNEY indicated that the Commission couldn't put a time limit on a zone change. He said they could if it was a variance.

GREG FERRIS, FERRIS CONSULTING, AGENT FOR THE APPLICANT commented that they are not introducing anything new into the area. He said parts of the site are already zoned LI. He said the owner of this property owns a number of car lots in Wichita. He said they will sell vehicles in the paved area. He said they would like extra vehicle storage on the gravel lot. He said in his opinion this use was much easier to do as a zone change because a variance process usually addresses situations that are unusual; includes State Laws and five specific requirements need to be met. He said this area has a mix of GC and LI zoning. He said what they are asking for is completely in line with what is being done in the area. He concluded by saying that they agree with the Staff Report and feel this site meets the criteria for a rezone.

MOTION: To approve subject to staff recommendation.

ELLISON moved, **TODD** seconded the motion, and it carried (10-0).

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9. **Case No.: ZON2016-00031** - TMR Partners, Attn: Samantha Allen (owner) requests a City zone change from SF-5 Single-family Residential to MF-18 Multi-family Residential on property described as:

Lots 33 and 35, on First Street, now Second Street, Walter Morris and Son's 3rd Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests MF-18 Multi-Family zoning on a 0.14-acre platted lot. The two single-family residences on the lot were built in 1919 (1502 W. 2nd) and 1920 (309 N. Elizabeth). The applicant intends to remodel/update the two structures on the lot. The lot meets the Unified Zoning Code (UZY) minimum lot dimensions and size for MF-18 zoning.

The surrounding neighborhood is primarily zoned SF-5 Single-family Residential (SF-5) and developed with single-family residences. However, lots within a five-block area are zoned MF-18. These properties are located south of W. 2nd between Martinson and Glenn.

CASE HISTORY: The site was platted as lots 33 and 35 of the Walter Morris & Sons 3rd Addition in 1922. Both residential structures pre-date the platting of the addition creating a non-conforming use in SF-5 zoning.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: West 2nd Street is a paved, two-lane local street at this location with a 70-foot right of way. North Elizabeth is a paved, two-lane local street at this location with a 60-foot right of way. All public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City limit and the Delano Area Plan. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including multi-family, typically found in large urban municipality. The site is located in the Delano Area Plan, which identifies the location for residential development and recommends redevelopment of original structures in the area.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The surrounding neighborhood is primarily zoned SF-5 Single-family Residential (SF-5) and developed with single-family residences. However, lots within a five-block area are zoned MF-18. These properties are located south of W. 2nd between Martinson and Glenn.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and is a non-conforming use with two single-family residential structures. Re-zoning the property to MF-18 would remove the non-conformity.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal. The use of the subject property is not proposed to change, other than renovations to improve both houses.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City limit and the Delano Area Plan. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including multi-family, typically found in large urban municipality. The site is located in the Delano Area Plan, which identifies the location for residential development and recommends redevelopment of original structures in the area.
- (5) **Impact of the proposed development on community facilities:** All services are in place. Any increased demand on community facilities can be handled by existing infrastructure.

KATHY MORGAN, Planning Staff presented the Staff Report.

FOSTER asked if staff considered a lot split.

MORGAN indicated that the lot was not big enough for a lot split. She said you would need 5,000 square feet for each lot.

JOHNSON asked how many units can be built on the site.

MORGAN indicated with MF-18 zoning, a total of 3 units maximum.

TODD clarified that the situation exists as a legal non-conforming use.

MORGAN replied yes.

SAMANTHA ALLEN, AGENT, TMR PARTNERS, 2020 WEST 21ST STREET NORTH said they are trying to insure that if something happens to one of these two houses they will have the financing to rebuild “as is.” She said they want to keep these houses. She said they are old and wonderfully built and their current tenants love them. She said they are not wanting to build a triplex, quad-plex or anything similar on the property. She said they were unaware of the zoning issue when they purchased the homes and only became aware of a problem when then applied for refinancing.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (10-0).

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- 10. Case No.: CON2016-00019** - Homer Morgan Revocable Trust, c/o Homer Morgan, Trustee (applicant/owner) and Stephen M. Joseph (agent) request a City Conditional Use to permit a Tavern and Drinking Establishment and an Entertainment Establishment within 300 feet of residential zoning on property zoned LC Limited Commercial on property described as:

Lot 5 EXCEPT the East 17 feet for street thereof, Block 8, Parkwilde Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The application area, 511 North West Street, is located on the west side of North West Street and south of the West Central Avenue intersection in LC Limited Commercial (LC) zoning and within 300 feet of residential zoning. The site is developed with a one-story building and 30 off-street parking spaces. The County Tax Assessor lists “bar/tavern/lounge” as the current land use. The site currently has a drinking establishment license allowing the sale of alcohol to exceed 50% of gross sales. A drinking establishment has functioned on the site for many years. The current drinking establishment is permitted in LC zoning, but is legal non-conforming under the Unified Zoning Code (UZC) because it is within 300 feet of residential zoning. The applicant wishes to obtain an entertainment license and therefore requests this conditional use for a “nightclub in the city.” Nightclub in the city is defined by the Unified Zoning Code (UZC) as an establishment that provides entertainment and/or dancing, where alcoholic beverages are served and where food may or may not be served. The UZC permits a nightclub in the city in the LC zoning district by right, but requires a conditional use if the property is located within 300 feet of a church, park, school or residential zoning district. The application area is adjacent to multi-family residential zoning and development west of the site. Duplex zoning and single-family residential development also exist within 300 feet southwest of the application area.

Property north of the site is zoned LC and developed with retail and restaurant uses. Property south of the site is zoned LC and developed with vehicle repair and a restaurant. Property east of the site is zoned LC and developed with printing, retail and restaurant uses. Property west of the site is zoned MF-29 Multi-family Residential (MF-29) and TF-3 Two-family Residential (TF-3) and developed with apartments and single-family residences.

CASE HISTORY: The site was platted as of Lot 5, Block 8 of the Parkwilde Addition to Wichita in 1887.

ADJACENT ZONING AND LAND USE:

North: LC	Neighborhood shopping center, retail, restaurant
South: LC	Vehicle repair, restaurant
East: LC	Printing, retail, restaurant
West: MF-29, TF-3	Apartments, single-family residences

PUBLIC SERVICES: North West Street is a paved arterial street with four lanes, a central turn lane and a signalized intersection at Central Avenue with additional turn lanes.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "new employment." The UZC requires one parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 100 people. The applicant's site plan demonstrates 30 parking spaces, 20 fewer than required. The applicant will require additional parking, which the site can accommodate. Or, the applicant could obtain a parking reduction through an adjustment or variance combined with additional on-site parking and/or a parking agreement with an adjacent property to meet the UZC parking requirement.

RECOMMENDATION: Staff notes that some form of drinking establishment has existed on this site for some time which does not appear to be incompatible with nearby residential uses. This application does not introduce a new use to the area. Staff notes that the site is screened and buffered with landscaping from nearby residential properties. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a Nightclub in the City be **APPROVED**, with the following conditions:

- (1) The applicant shall meet the UZC parking requirements by providing additional parking on the site, obtaining a parking reduction, or securing an off-site parking agreement.
- (2) The applicant shall submit a revised site plan, to be approved by planning staff, which identifies required parking.
- (3) The site shall be developed and maintained in conformance with the approved site plan.
- (4) No outside loudspeakers or outdoor entertainment is permitted.
- (5) The site shall maintain all necessary licenses for a nightclub in the city.
- (6) The site shall conform to all applicable codes and regulations to include but not limited to zoning, building, fire and health.

- (7) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north of the site is zoned LC and developed with retail and restaurant uses. Property south of the site is zoned LC and developed with vehicle repair and a restaurant. Property east of the site is zoned LC and developed with printing, retail and restaurant uses. Property west of the site is zoned MF-29 Multi-family Residential (MF-29) and TF-3 Two-family Residential (TF-3) and developed with apartments and single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and developed with a drinking establishment. The site could continue to be a legal non-conforming drinking establishment without the nightclub conditional use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is zoned LC and could be developed with any range of permitted uses in that district. The proximity of residential zoning triggers the conditional use review for a nightclub. Noise and activity from the nightclub could impact nearby residences; proposed conditions prohibiting outdoor speakers and entertainment should mitigate this impact. The request does not introduce a new use in the neighborhood. The limited size of the site and building will prevent expansion beyond a neighborhood scale, and proposed conditions should mitigate impacts on surrounding properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial of the request would presumably be an economic hardship upon the property owner, as the applicant owns the property and desires to operate the proposed business within LC zoning.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "new employment." The UZC requires one parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 100 people. The applicant's site plan demonstrates 30 parking spaces, 20 fewer than required.
6. Impact of the proposed development on community facilities: The proposed Conditional Use should not impact community facilities to any greater extent other uses permitted in the LC zoning district.

SCOTT KNEBEL, Planning Staff presented the Staff Report. He reported that the DAB VI recommended unanimous approval of the application.

RICHARDSON asked why this was a legal non-conforming use now.

KNEBEL said this establishment existed prior to the zoning change requiring a conditional use when adjacent to residential zoning. He said they are continuing to apply for and receive drinking establishment permits. He said the entertainment license makes this a nightclub as opposed to just a drinking establishment. He said he understands they offer karaoke.

RICHARDSON asked what were the differences between a drinking establishment and a nightclub.

KNEBEL explained that a nightclub is a combination of a drinking establishment with entertainment.

RICHARDSON asked if that qualified this for adult entertainment.

KNEBEL replied no and added that adult entertainment and sexual oriented businesses are two different classifications.

STEPHEN JOSEPH, 500 NORTH MARKET, AGENT FOR THE APPLICANT, HOMER MORGAN said his client was in the process of upgrading all his properties to get them into conformance with City zoning. He said this establishment has been a bar for a very long time. He said there is no intent to do outside entertainment. He said they intend to expand the parking lot to provide the necessary parking to bring it into conformance with the UZC.

There was brief discussion between the requirements of the UZC and state licensing when it comes to drinking establishments versus nightclubs, bars and taverns.

MCKAY asked if the applicant agreed with staff comments.

JOSEPH replied yes.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **TODD** seconded the motion, and it carried (10-0).

DOOL requested clarification that dancing is not adult entertainment.

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11. **Case No.: CON2016-00020** - Homer Morgan Revocable Trust, c/o Homer Morgan, Trustee (applicant/owner) and Stephen M. Joseph (agent) request a City Conditional Use to permit a Tavern and Drinking Establishment and an Entertainment Establishment within 300 feet of residential zoning on property zoned LC Limited Commercial on property described as:

Lots 14 and 15, Lawrence Avenue, Hartle's Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The LC Limited Commercial (LC) zoned 0.33 acre platted subject property is generally located north of 13th Street North on the west side of Broadway at 1457 N. Broadway. Currently the south portion of a 2,628-square foot one-story commercial strip building (built 1950) that advertises itself as El Sombrero is located on the subject property. The subject property is currently vacant.

When a tavern, drinking establishment or nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required; Unified Zoning Code (UZC), Sec.III-D6.w. TF-3 Two-Family Residential (TF-3) zoned properties are located approximately 55 feet west and 225 east of the subject property. There is no history of a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on the subject property. However, the applicant has stated that the subject property has been either a tavern, drinking establishment or nightclub most of its time (from 1955 to the present). The subject property's most recent drinking establishment license expired November 2, 2015, and prior to that time, a legal, non-conforming nightclub operated on the property. The applicant is applying for a Conditional Use for a nightclub to get the subject property in conformance with the UZC and to obtain a drinking establishment and entertainment license.

The applicant's site plan is an aerial and shows 19 marked parking spaces on the east side of the building. There is a paved parking lot without marked parking spaces on the west side of the building that could accommodate another seven (7) parking spaces, for a total of 26 parking spaces on the subject property. The proposed nightclub shares the 2,928-square foot one-story commercial strip building with a closed Chit Chat Wireless store. The occupancy of the nightclub is 40, and the retail space in the building occupies approximately 1,800 square feet. The parking requirement for the nightclub is 20 parking spaces (one space per two occupants), and six (6) parking spaces (one space per 333 square feet) are required for the retail space. Therefore, the 26 on-site parking spaces meet UZC parking requirements.

A variety of business along Broadway that are zoned LC and GC General Commercial (GC) and include restaurants, retail, offices, motels, vehicle repair, vehicle sales, and a mortuary, comprise the predominate development in the vicinity of the subject property. Residential areas located both east and west of the Broadway commercial corridor and are developed with a mixture of single-family, two-family, and multi-family residences zoned TF-3, MF-29 Multi-Family Residential (MF-29), and B Multi-Family Residential (B). A multi-use path abuts the west boundary of the subject property, and east of the subject property across Broadway is a vacant site currently under development.

CASE HISTORY: The subject property is platted as Lots 14 and 15 on Lawrence (now Broadway) Avenue, Hartle Addition, which was recorded March 3, 1910.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Duplex, restaurant, retail
SOUTH:	LC	Restaurant, motel, mortuary, vehicle sales, vehicle repair
EAST:	LC, GC	Office, retail, vehicle sales, single-family, duplex, vacant
WEST:	LC, TF-3	Multi-use path, single-family, duplex

PUBLIC SERVICES: The subject property has access to the paved four-lane, arterial Broadway Avenue. Municipal utilities and public services currently serve the subject property.

CONFORMANCE TO PLANS/POLICIES: The “Community Investments Plan” shows the subject property located within the “Established Central Area.” This area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The established central area is the focus area for the Wichita Urban Infill Strategy. The established central area encourages a mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. A nightclub is an entertainment facility.

The “Community Investments Plan 2035 Wichita Future Growth Map” depicts the subject property as “commercial.” The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

The “Midtown Neighborhood Plan 2020 Future Land Use Concept” depicts the subject property as “mixed-use” and identifies as the main commercial corridor/district of the neighborhood. A nightclub is an appropriate use in a main commercial corridor.

RECOMMENDATION: A legal, non-conforming nightclub has operated on the subject property for many decades. The applicant is applying for a Conditional Use for a nightclub to get the subject property in conformance with the UZC and to obtain a drinking establishment and entertainment license. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **APPROVED**, with the following conditions:

- (1) The nightclub shall be limited to an occupancy of 40 persons, exclusive of an outdoor seating area as permitted by Sec. III-D.6.w. of the UZC.
- (2) No outdoor speakers or outdoor entertainment is permitted.
- (3) The site shall be developed in conformance with a revised site plan approved by planning staff. The site plan shall depict, at a minimum, the occupancies contained on the subject property; the required parking spaces; the trash dumpster and screening enclosure; and the outdoor seating/smoking area. The site plan must be submitted for review within 60-days of approval of the Conditional Use.
- (4) The site shall maintain all necessary licenses for a nightclub in the city.
- (5) The site shall conform to all applicable codes and regulations to include but not limited to zoning, building, fire, and health.
- (6) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** A variety of business along Broadway that are zoned LC and GC General Commercial (GC) and include restaurants, retail, offices, motels, vehicle repair, vehicle sales, and a mortuary, comprise the predominate development in the vicinity of the subject property. Residential areas located both east and west of the Broadway commercial corridor and are developed with a mixture of single-family, two-family, and multi-family residences zoned TF-3, MF-29 Multi-Family Residential (MF-29), and B Multi-Family Residential (B). A multi-use path abuts the west boundary of the subject property, and east of the subject property across Broadway is a vacant site currently under development.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned the LC, which is meant to accommodate retail, commercial, office and other complementary uses. If approved, the request would establish a nightclub as conforming use to the UZC on the site.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, and the hours of the nightclub having a detrimental impact on the residential neighborhood. The subject property is located along the Broadway commercial corridor and is buffered from residential areas by a multi-use path, which should mitigate detrimental impacts on nearby properties.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “Community Investments Plan” shows the subject property located within the “Established Central Area.” This area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The established central area is the focus area for the Wichita Urban Infill Strategy. The established central area encourages a mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. A nightclub is an entertainment facility.

The “Community Investments Plan 2035 Wichita Future Growth Map” depicts the subject property as “commercial.” The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

The “Midtown Neighborhood Plan 2020 Future Land Use Concept” depicts the subject property as “mixed-use” and identifies as the main commercial corridor/district of the neighborhood. A nightclub is an appropriate use in a main commercial corridor.
- (5) **Impact of the proposed development on community facilities:** It is possible that approval of this request could result in an increased demand for police services.

SCOTT KNEBEL, Planning Staff presented the Staff Report. He reported that DAB VI recommended unanimous approval of the application.

STEPHEN JOSEPH, 500 NORTH MARKET, AGENT FOR THE APPLICANT, HOMER MORGAN said parking was discussed at development review and they will comply with staff recommendations. He said this has been a neighborhood bar for as long as anyone can remember so it is a legal non-conforming use. He said his client is attempting to get all of his properties into conformance with zoning requirements through the conditional use process.

MOTION: To approve subject to staff recommendation.

RICHARDSON moved, **ELLISON** seconded the motion, and it carried (10-0).

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12. **Case No.: CUP2016-00022** - Sundance Kansas Associates, LLC (applicant) and Robert Kaplan (agent) request a City CUP Major Amendment to DP-62 to increase the permitted residential density on Parcel 8 on property described as:

That part of Lot 4, Block 1, E.E. Jabes Addition to Wichita, Sedgwick County, Kansas described as follows: Beginning at the northwest corner of said Lot 4; thence N89°12'17"E along the north line of said Lot 4, 626.79 feet to the northeast corner of said Lot 4; thence S00°33'13"E along the east line of said lot 4, 196.35 feet to a deflection corner in said east line; thence S22°21'18"E along the east line of said Lot 4, 53.85 feet to a deflection corner on the said east line; thence S00°33'13"E along the east line of said Lot 4, 84.00 feet; thence S89°25'46"W, 185.68 feet; thence S77°31'43"W, 199.18 feet; thence S24°25'00"W, 55.10 feet; thence S89°12'49"W, 241.19 feet to a point on the west line of said Lot 4; thence N00°47'43"W along the west line of said Lot 4, 419.87 feet to the point of beginning.

CHAIR NEUGENT announced that the case was deferred indefinitely.

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13. **Case No.: CUP2016-00023** - Menard, Inc., c/o Tyler Edwards (owner) and MKEC Engineering, Inc., c/o Brian Lindebak (agent) request a City CUP Amendment to DP-295 to increase the size of an accessory structure with a 35-foot setback on property described as:

Reserve A, TOGETHER WITH, Lot 11, Block 1, Stonebridge Commercial Addition, an addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The LC Limited Commercial (LC) and GC General Commercial (GC) zoned site is located within DP-295, the Stonebridge Community Unit Plan (CUP) at the southeast corner of West 37th Street North and North Maize Road. The application area is developed with a Menard's Home Improvement store and an associated accessory storage structure used for lumber. The applicant requests various modifications to DP-295 Parcels 11a and 11b. The CUP currently limits the size of an accessory storage building on Parcel 11b, with a 35-foot setback, to 30,001 square feet. The applicant intends to increase the size of this building by over 40%, and requests to eliminate the size limitation.

The accessory structure will maintain the 35-foot building setback and 45-foot height limit. The applicant requests to eliminate the Parcel 11a and 11b limit of a maximum of five buildings each, the maximum building coverage of 30% and floor area ratio of 0.30 remains the same. The applicant also requests to clarify parking standards language (see the applicants attached letter and draft CUP document) which is generally consistent with the current Unified Zoning Code (UZC), as the UZC parking standards were reduced after this CUP was created.

The existing DP-295 has building setbacks, landscaping, signage, lighting, trash screening, perimeter wall screening and other standards. The remainder of the CUP is zoned LC and developed primarily with restaurant and convenience store uses. The northeast and southwest corners of West 37th Street North and North Maize are in the City of Maize and developed with retail, banking, storage and government uses. The northwest corner of West 37th Street North and North Maize is zoned LC, under DP-262, and developed with a medical office. Land located south of the site is zoned LC, under DP-330, and is developing with multi-family residences. East of the site is an SF-5 Single-family Residential zoned Maize school site.

CASE HISTORY: The property is platted as Northborough Addition, recorded in 2009, the CUP was originally approved in 2009. It has been amended once and adjusted three times.

ADJACENT ZONING AND LAND USE:

NORTH:	City of Maize	University branch
SOUTH:	LC	Vacant, multi-family residential
EAST:	SF-5	Schools
WEST:	City of Maize	Retail, banking, self-storage

PUBLIC SERVICES: The property has direct access to Maize and 21st Street, both are four-lane arterial streets with turn lane improvements. The Maize and 21st Street intersection has center and right turn lanes.

CONFORMANCE TO PLANS/POLICIES: The site is subject to the recommendations contained in the adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*. The Plan's 2035 *Wichita Future Growth Concept Map* identifies this location as "New Employment" which encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services or corporate offices. Major shopping centers and office parks likely will be developed within this area as well, based upon market driven location factors. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The Locational Guidelines of the Comprehensive Plan encourage major commercial development at arterial street intersections. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request for an amendment to DP-295 Parcels 11a and 11b as requested be **APPROVED**, subject to the following conditions:

- (1) The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days of approval or the request shall be considered denied and closed.
- (2) If the Zoning Administrator finds that there is a violation of any of the conditions of the CUP amendment, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the CUP amendment null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The existing DP-295 has building setbacks, landscaping, signage, lighting, trash screening, perimeter wall screening and other standards. The remainder of the CUP is zoned LC and developed primarily with restaurant and convenience store uses. The northeast and southwest corners of West 37th Street North and North Maize are in the City of Maize and developed with retail, banking, storage and government uses. The northwest corner of West 37th Street North and North Maize is zoned LC, under DP-262, and developed with a medical office. Land located south of the site is zoned LC, under DP-330, and is developing with multi-family residences. East of the site is an SF-5 Single-family Residential zoned Maize school site.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned LC with DP-295 development controls. The accessory storage structure on Parcel 11b cannot be expanded without the requested amendment.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The proposed amendment should have no impact on nearby property as the expanded storage building will still retain a 35-foot setback and 45-foot height limit.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The site subject to the recommendations contained in the adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plans*. The Plan's 2035 *Wichita Future Growth Concept Map* identifies this location as "New Employment" which encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks likely will be developed within this area as well, based upon market driven location factors. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The Locational Guidelines of the Comprehensive Plan encourage major commercial development at arterial street intersections. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations.
- (5) **Impact of the proposed development on community facilities:** The requested CUP amendment should have minimal or no impact on community facilities.

SCOTT KNEBEL, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

RAMSEY moved, **RICHARDSON** seconded the motion, and it carried (13-0).

NON-PUBLIC HEARING ITEMS

14. Case No.: Conformity of the Proposed 2017-2021 Sedgwick County Capital Improvement Program with the Community Investments Plan

Background: On July 7, 2016, the Advance Plans Committee received a presentation on the proposed 2017-2021 Sedgwick County Capital Improvement Program (CIP). The Advance Plans Committee subsequently passed a motion (4-0) recommending that the MAPC find the proposed 2017-2021 Sedgwick County Capital Improvement Program to be in substantial conformity with the Community Investments Plan 2015-2035.

Analysis: Section 12-748 of Kansas statutes requires a planning commission to review the capital improvement program of its municipality to make a finding as to whether the proposed public improvements, public facilities or public utilities conform to the adopted comprehensive plan. If the planning commission finds that any such proposed public improvement does not conform to the plan, the commission shall submit in writing to the governing body, the manner in which such improvement does not conform.

Staff has reviewed the proposed 2017-2021 Sedgwick County Capital Improvement Program and has determined that the capital improvements proposed therein substantially conform with several important plan guiding principles and infrastructure spending priorities contained in the recently adopted Community Investments Plan 2015-2035.

Recommended Action: That the Metropolitan Area Planning Commission find the proposed 2017-2021 Sedgwick County Capital Improvement Program to be in substantial conformity with the adopted Community Investments Plan 2015-2035, being the Wichita-Sedgwick County Comprehensive Plan.

JIM WEBER, DEPUTY DIRECTOR, SEDGWICK COUNTY PUBLIC WORKS gave a brief presentation on the County 2017-2021 Capital Improvement Program. He reviewed current road and bridge inventory and signs. He said the three categories of CIP projects were maintenance, enhancement and expansion. He discussed preventative maintenance scheduling and detailed budget projections and the status of current and future road work, bridge repair and drainage projects. He gave details and budget information on several projects including the Northwest Bypass and KDOT funding of the project which was originally 2-1 but has decreased to 1-1; a WAMPO study that recommended a parkway on the south end of the City which included a bridge over the Arkansas River; and the bike path system including a sidewalk/bike path connecting to base housing at McConnell.

WEBER referred to the financial summary which detailed graphs and charts indicating when monies were scheduled to be spent and on which projects.

WEBER briefly reviewed goals of the Community Investment Plan and how the proposed CIP has met or intends to meet those goals.

DAILEY asked what was the point of a 10-foot wide side walk as opposed to a 6-8 foot wide sidewalk.

WEBER reported that if federal funds are involved in a project, 10 feet is the standard requirement. He added that if it is an active pathway or sidewalk you need room to pass without bumping someone off the path.

RICHARDSON asked about funding for the Northwest Bypass and asked how long it is going to take to acquire the right of way for the project.

WEBER said the \$2.6 figure was the five year total. He added that Goddard and Maize are minor players but are still in the game. He explained that when the route and layout for the Bypass was identified, a Protective Overlay was created. He said if you own property in that PO and you come to the County for a building permit, that triggers an alarm and KDOT gets in touch with the individual to inform them that their investment may be in jeopardy in the future and possibly purchase the property from the individual now. He commented that on some projects, more money has been spent on acquiring right of way than on the road improvements themselves. He also mentioned sales on hardship cases. He estimated they are about one third of the way through the process now and added that at some point when KDOT decided it is worth it they are going to have to put more money into it.

RICHARDSON clarified that they are opportunity purchases.

MOTION: That the 2017-2021 Sedgwick County Capital Improvement Program was in substantial conformity with the adopted Community Investments Plan 2015-2035.

JOHNSON moved, **TODD** seconded the motion.

FOSTER mentioned the \$9-\$10 billion dollar deficit identified in the Community Investment Plan. He said the Northwest Bypass and 95th Street South were not given much consideration. He asked about the discussion behind allocating \$3-4 to promote those projects.

WEBER commented that KDOT still thinks the Northwest Bypass is important and are still investing in it. He said in his opinion he believes because KDOT manages the highway system for the entire State of Kansas, they have a different prospective than just thinking locally. He suggested it was a disconnect in the different levels of planning.

KNEBEL commented that Commissioner Foster was referencing what the Steering Committee recommended and the Planning Commission adopted. He said the Plan adopted by the County Commission put a higher priority on the Northwest Bypass and the City went along with that change to the Plan.

WEBER said as far as 95th Street is concerned, he agreed that was a massive investment. He said he believes there is a need for another crossing over the Arkansas River down south within the next 10-15 years. He said they have not programmed anything west of Meridian. He concluded by stating that since the economic crash of 2008, they have had to go back and relook at some projects.

MCKAY commented that KDOT came to the City and requested the Kellogg project.

TODD said this does provide an opportunity to buy land at cheaper prices than if this was already improved.

CHAIR NEUGENT asked about the rationale behind reducing the preventative maintenance budget. She commented that it seemed like an odd place to take money.

WEBER said the conversation is about what is an appropriate maintenance cycle. He said some say a 5-year cycle and others think it should be longer. He said by lengthening the cycle the County can save money. He said they are trying to find the balancing point and right now they are thinking it is in the 5-7 year range.

The **MOTION** carried (10-0).

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15. **Case No.: DER2016-00005** - Establish a Public Hearing date of August 18, 2016 for DER2016-00005 dealing with a number of amendment to the "Wichita-Sedgwick County Unified Zoning Code". The proposed amendments deal with event centers in the County, churches, farmer's markets and bed and breakfast uses in certain zoning district.

FOSTER referenced some conflicting information on page 26 regarding the Supplemental Use Regulations. He commented that the idea of permitting event centers by right in RR seems irresponsible to him. He mentioned two examples of an air strip and gun shooting range. He said he will bring it up in more detail at the public hearing.

MOTION: To set August 18, 2016 as a public hearing date for amendments to the UZC.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (9-1). **FOSTER** – No.

NON-PUBLIC HEARING ITEM

KNEBEL referenced rescinding Policy Statement #5 which required platting within one year for approval of a zone change. He said a number of cases were approved prior to rescinding of that policy. He said Policy #5 allowed staff to grant platting extensions. He said what staff is proposing is when someone seeks an extension, staff would forward an ordinance to the governing body for approval of the zoning on the property and change the zoning map.

MCKAY clarified that the previously approved zoning properties were not on the zoning map. He asked can't staff just go to the governing body with a list.

KNEBEL commented that given the current caseload, he does not believe the Planning Department has the resources to prepare that kind of list.

MOTION: To take staff recommendation.

JOHNSON moved, **RICHARDSON** seconded the motion, and it carried (10-0).

FOSTER asked about fees to the applicant. He clarified that the goal was to get all the approved zoning on the map.

KNEBEL said there was a fee for a platting extension and that is what staff intends to charge. He added that there is some paperwork and staff expenses associated with processing the paperwork.

The Metropolitan Area Planning Commission adjourned at 3:55 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, W. Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2016.

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission